

Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in graphic arts production. See 86 Ill. Adm. Code 130.325. (This is a GIL.)

December 15, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 24, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a retailer/wholesaler of equipment, parts, and supplies used in the production of graphic arts. We are requesting a letter ruling to clarify the products that are exempt under the Graphic Arts Production Exemption Regulation 130.325. Our customers include commercial printers, manufacturers, prepress shops, newspapers, publishers, and quick-print shops.

Many of our customers believe that the exemption covers any and all products that are used in the production of a printed product or the manufacture of a product that includes printing as a part of the process. Some of the items in question are as follows: film used to produce an image on a screen or printing plate, stripping material, proofing products, photographic paper, plates, blankets, screens, chemicals, sticky back tape for mounting plates, coatings, ink jet cartridges and papers, data storage media, and sundry accessories like image deletion pens, cheesecloth and pads for applying/removing chemicals to/from plates etc., razor blades for cutting films and paper, rubber gloves, sponges, and masking sheets.

With the reinstatement of the Graphic Arts Production Exemption next month, we urgently need clarification. Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

The Department's rules regarding the Graphic Arts Machinery and Equipment Exemption are set forth at 86 Ill. Adm. Code 130.325. Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production. Taxpayers must certify the use of the equipment they are purchasing to their suppliers.

The term "graphic arts production" means "printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System ("NAICS") published by the U.S. Office of Management and Budget, 1997 edition (no subsequent amendments or editions are included). Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audio-books."

The term "machinery" means major mechanical machines or major components of such machines contributing to graphic arts production. "equipment" means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit of assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery.

The exemption does not include hand tools, supplies (such as rags, lubricants, adhesives, solvents, ink, dyes, chemicals, negatives, acids or solutions), fuels, electricity, steam or water. Please note that graphic arts equipment includes chemicals or chemicals acting as catalysts, but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. The exemption does not include items of personal apparel, such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks. Machinery and equipment does not include foundations or special purpose buildings to house or support graphic arts machinery and equipment. It also does not include computer software unless purchased preinstalled in qualifying computer equipment.

The law requires that machinery and equipment be used primarily in graphic arts production. Machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify for the exemption; however, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the exemption.

For additional information on items that may or may not be considered exempt under the Graphic Arts Machinery and Equipment Exemption, please see 86 Ill. Adm. Code 130.325. For example, Section 130.325(b)(4) sets forth some examples of activities that will generally be considered graphic arts production. Section 130.325(b)(5) provides examples of activities that will generally not be considered to be graphic arts production. Section 130.325(b)(8) explains how the exemption certificates work.

Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain the certificates in their books and records. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily

in graphic arts production. If a graphic arts producer or lessor purchases qualifying equipment at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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